WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.862 of 2012

Annamalai .. Petitioner/
Defacto Complainant

Vs.

1. The Inspector of Police,
Katpadi Police Station,
Katpadi, Katpadi District.

2. Raghu

3. Suresh

.. Respondents

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to call for the records from the file of the Additional District and Sessions Court, Fast Track Court, Vellore in S.C.No.140 of 2008 and revise the order passed in S.C.No.140 of 2008 dated 30.07.2009.

For Petitioner : Mr.P.G.Thiyagu
for Mr.Rajkumar Paul

For Respondents: Mr.T.Shanmuga Rajeswaran
Government Advocate (Crl. Side) for R1
Mr.K.A.Ravindran for R2 & R3

O R D E R

This Criminal Revision has been filed to call for the records and set aside the order dated 30.07.2009 made in S.C.No.140 of 2008 passed by the learned Additional District and Sessions Judge, Fast Track Court, Vellore.

2. The case of the prosecution is that the accused have enmity with the deceased, due to which, they murdered the daughter of the defacto complainant on 15.10.2006 and hided the body of the deceased. PW-1/father of the deceased preferred a complaint against the accused persons before the respondent

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

police and a case in Crime No.1252 of 2006 was registered for the offence under Sections 450, 302, 302 r/w 201 IPC. After completing the investigation, the respondent police has filed a final report in PRC No.5 of 2008 before the learned Judicial Magistrate No.3, Vellore. The learned Magistrate found that the offence is triable by the Sessions Court and made over to the Sessions Judge, Vellore. The learned Sessions Judge made over to the learned Additional District and Sessions Judge, Fast Track Court, Vellore for disposal. After completing trial, the learned Additional District and Sessions Judge found that the prosecution has failed to establish its case beyond reasonable doubts and hence, the benefit of doubt is extended to the accused by judgment dated 30.07.2009. Challenging the said judgment, the defacto complainant/father of the deceased preferred the present revision before this Court.

3. The learned counsel for the petitioner would submit that the evidence of PW-1 to PW-3 has clearly established the last seen theory and the enmity between the accused and the defacto complainant's family. Though the last seen theory has been established, the learned trial Judge has given importance to the technicality. It is a settled law that the defect in investigation may not be a sole ground for acquitting the accused. On the date of occurrence, there was Local Body Election and PW-1/father of the deceased went for election. Later, the defacto complainant went to his house and found that his daughter was missing and thereafter, he found the body in the next day morning. The chain of link has been established the appreciation in evidence, warrants interference.

4. The learned counsel appearing for the respondents 2 & 3 would submit that there is no last seen witness. In this case neither the case is based on direct eye witness nor the circumstance witness and there is no chain of circumstances has been established without any break in this case. Therefore, the trial Court has rightly appreciated the evidence and acquitted the accused and there is no reason to interfere with the judgment passed by the trial Court.

5. Heard the learned counsel appearing for the revision petitioner, the learned Government Advocate (Crl. Side) appearing for the first respondent and the learned counsel for the respondents 2 and 3. Perused the materials available on records.

6. The case of the prosecution is that on 15.10.2006 due to enmity, the accused murdered the daughter of the defacto complainant and hided the body of the deceased. Admittedly, there is no eye-witness and no witness has spoken that the accused were seen along with the deceased lastly on the date of

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

occurrence. There is no chain of link.

7. It is a well settled law that in the circumstantial evidence, there must be a last seen theory i.e., one might have seen the accused along with the deceased prior to the occurrence and after the death and there must be a link to those person, who have committed the offence. When two views are possible, the benefit of doubt should be extended to the accused. Doctor evidence also clearly shows that the body of the deceased was in the decomposed stage. The alleged occurrence taken place on 15.10.2006 and the body of the deceased was recovered on 16.10.2006. Post mortem was conducted on 17.10.2006. Doctor also stated that the body will decompose after 48 hours, but he has not mentioned in the post mortem certificate that as to how many hours before the death could have happened. The prosecution has not established the chain of circumstance and also the last seen theory. There is no compelled reason to interfere with the judgment of the trial Court.

7. In the above circumstances, there is no merit in this revision and the same is liable to be dismissed. Accordingly, this Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

KMI

To

1. The Additional District and Sessions Judge,
   Fast Track Court, Vellore.

2. The Inspector of Police,
   Katpadi Police Station,
   Katpadi, Katpadi District.

3. The Public Prosecutor,
   High Court, Madras-104.

+1cc to Mr.S.Senthamil Selvan, Advocate, S.R.No.50888

Crl.R.C.No.862 of 2012

VGII(CO)
CS/05/09/2019

https://hcservices.ecourts.gov.in/hcservices/